

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ANDREW LEVITT

c/o Aneca E. Lasley, counsel for Plaintiff,
250 West Street, Suite 700
Columbus, Ohio 43215-7509

Plaintiff,

V.

BEERSY L.L.C.

c/o Kyle Laukala, Registered Agent
31620 SE 275th Place
Ravensdale, Washington 98051

and

4652 East Date Avenue
Fresno, California 93725,

Defendant.

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Case No. 2:25-cv-787

Judge

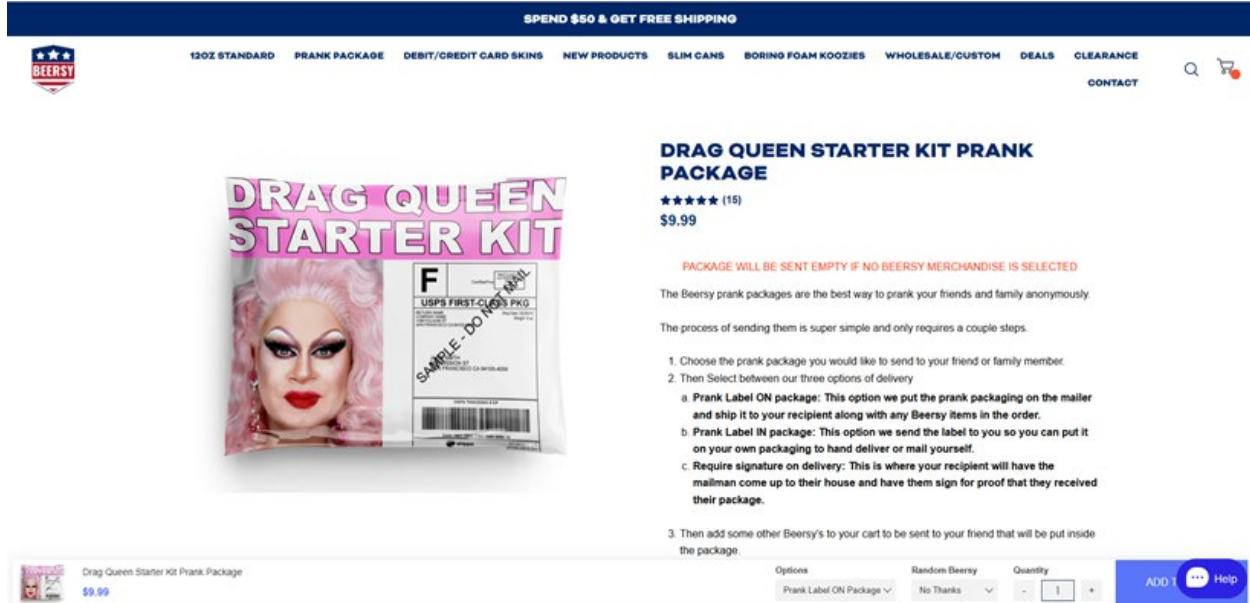
COMPLAINT

Plaintiff Andrew Levitt (“Mr. Levitt”), by and through his undersigned counsel, files this Complaint against Beersy L.L.C. (“Beersy”) and states as follows:

NATURE OF THE ACTION

1. Mr. Levitt is not only a well-known activist, actor, and singer-songwriter; he is an internationally recognized drag queen, going by the stage name Nina West. Nina West rose to national and international prominence with her appearance on the eleventh season of *RuPaul's Drag Race*, where she won Miss Congeniality.

2. This is an action seeking damages and injunctive relief from Beersy, arising out of



Beersy's unauthorized use of Mr. Levitt's photograph as Nina West on its "Drag Queen Starter Kit Prank Package"¹ available for sale on Beersy's website.

3. Not only is Beersy using Mr. Levitt's photograph on its prank package without his consent, but Beersy is using Mr. Levitt's photograph on a product that represents everything Mr. Levitt opposes personally. Mr. Levitt is a strong advocate for LGBTQ rights – yet Beersy's prank packages, and generally all of its products, stand for just the opposite.

4. The Ohio Right of Publicity Statute ("ORPS") prohibits the use of any aspect of an individual's persona, including their name, voice, signature, photograph, image, likeness, from being used without the individual's written consent.

5. Beersy's unauthorized use of Mr. Levitt's photograph on its product constitutes a violation of the ORPS, Ohio Revised Code § 2741.01, *et seq.*, and Ohio common law.

¹ <https://beersy.com/collections/prank-packages/products/drag-queen-starter-kit-prank-package> (last accessed June 26, 2025).

6. Mr. Levitt brings this Complaint seeking: (i) an injunction permanently enjoining Beersy from continuing to use his photograph and persona on its products for sale on its website; (ii) an award of the greater of actual damages, including any profits derived from and attributable to the unauthorized use of Mr. Levitt's photograph, or statutory damages in the amount of \$10,000 as provided in R.C. § 2741.07; (iii) an award of punitive or exemplary damages; and (iv) reasonable attorneys' fees, court costs, and other expenses incurred to redress this harmful conduct.

THE PARTIES

7. Plaintiff Andrew Levitt is a citizen of the State of Ohio residing in Columbus, Ohio.

8. Upon information and belief, Defendant Beersy LLC is a Washington limited liability company with its principal place of business located at 31620 SE 275th Place, Ravensdale, Washington 98051. Upon further information and belief, no member of Defendant Beersy LLC is a citizen of Ohio.

JURISDICTION AND VENUE

9. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 because the parties are diverse and the amount in controversy is greater than \$75,000.00.

10. The Court has supplemental jurisdiction over Mr. Levitt's state-law causes of action pursuant to 28 U.S.C. § 1367.

11. The Court has personal jurisdiction over Beersy pursuant to Ohio Revised Code § 2307.382(A)(1) because Beersy transacts business in the State of Ohio and § 2307.382(A)(4) because Mr. Levitt suffered an injury in the State of Ohio as alleged herein, and Beersy regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in the State of Ohio. Furthermore, jurisdiction is proper pursuant to Ohio Revised Code § 2307.382(A)(6) because Beersy caused

injury to Mr. Levitt in the State of Ohio as alleged herein through Beersy's act(s) outside this state committed with the purpose of injuring Mr. Levitt, which Beersy might reasonably have expected would injure Mr. Levitt in the State of Ohio.

12. Venue is proper in this Court under 28 U.S.C. § 1391(b), because a substantial part of the events or omissions giving rise to Mr. Levitt's claim occurred in this district.

FACTUAL ALLEGATIONS

A. Mr. Levitt's Background and Presence as Nina West.

13. Mr. Levitt is a well-known drag queen, activist for LGBTQ+ causes, actor, and singer-songwriter. Mr. Levitt performs under the stage name "Nina West."

14. Mr. Levitt appeared on the eleventh season of *RuPaul's Drag Race* and the ninth season of *RuPaul's Drag Race All Stars*, popular American reality competition television series broadcasted nationally and internationally.

15. Mr. Levitt has released multiple music albums as Nina West, appeared as Nina West in commercials and campaigns for films, and established The Nina West Fund at The Columbus Foundation in Ohio to support nonprofits that provide services for the LGBTQ+ community.

16. Mr. Levitt also starred as Edna Turnblad in the national tour of *Hairspray*, and as Nina West in the film *Queens of the Dead* a 2025 American horror comedy film.

17. Mr. Levitt's career as Nina West places a high degree of value on his goodwill and reputation, which is critical in order to maximize earning potential and establish his individual brand.

18. Mr. Levitt is necessarily selective concerning the companies, brands, and causes he chooses to work for or endorse.

19. Mr. Levitt highly values his personal privacy and his ability to control and prevent the commercial use and distribution of his persona, including his photograph, without his consent.

B. Beersy's Unauthorized Use of Mr. Levitt's Photograph on its Products.

20. Beersy is a novelty product company selling its products through its publicly available website that it owns and operates, beersy.com.

21. Through its website, customers may browse and purchase products including silicone beverage sleeves, debit and credit card skins, foam koozies, and prank packages.

22. Per Beersy's website², prank packages allow the customer to "[b]e the ultimate prankster and send [their] friends, family or co-workers a prank package. Have the mailman laughing all the way up to your friends mailbox."

23. In or around 2023, Mr. Levitt discovered that Beersy was using his photograph on a prank package Beersy sells without his consent.

24. The prank package that uses Mr. Levitt's photograph, when dressed as Nina West, is titled "DRAG QUEEN STARTER KIT PRANK PACKAGE."

25. Beersy's sole purpose in using Mr. Levitt's photograph on the prank package is to advertise its prank package to its customers.

² <https://beersy.com/collections/prank-packages> (last accessed June 26, 2025).

26. As shown in the screenshot below, the prank package at issue includes a photograph of Mr. Levitt's face as Nina West on the left, the words "DRAG QUEEN STARTER KIT" at the top, and a mailing label on the right:



27. On Beersy's website, there are fifteen (15) reviews left by Beersy customers who purchased the prank package using Mr. Levitt's photograph as Nina West.

28. Upon information and belief, more than fifteen individuals have purchased this prank package using Mr. Levitt's photograph as Nina West.

C. Mr. Levitt has Incurred Damages Arising from Beersy's Unauthorized Use of Mr. Levitt's Photograph.

29. Beersy appropriated Mr. Levitt's photograph without permission from Mr. Levitt.

30. Beersy neither holds the copyright of the photograph at issue nor does it have permission from the copyright holder to use the photograph.

31. Beersy's use of Mr. Levitt's photograph creates a false impression that Mr. Levitt works with Beersy, endorses Beersy's products, or is otherwise affiliated, associated, or connected to Beersy.

32. Mr. Levitt does not have a relationship with Beersy or beersy.com.

33. Mr. Levitt has never done business with beersy.com and has not provided his name, photograph, likeness, or any other personal information to Beersy.

34. Mr. Levitt did not consent to Beersy's use of his photograph on prank packages or any other product sold through beersy.com.

35. Mr. Levitt has intellectual property and privacy interests in his photograph, likeness, and persona, recognized by Ohio statutory and common law.

36. Mr. Levitt has the right to prohibit anyone from making commercial use of his persona, which has commercial value, without his consent.

37. Beersy has injured Mr. Levitt by invading his privacy rights protected by Ohio statutory and common law and by unlawfully profiting from its exploitation of his photograph.

38. Beersy has injured Mr. Levitt by creating a false impression that he would affiliate himself with Beersy or use or endorse their product.

39. Beersy's unlawful actions have caused Mr. Levitt mental injury and disturbed his peace of mind. Mr. Levitt is deeply uncomfortable that Beersy is profiting from its use of his photograph on offensive products for a website that he does not use, endorse, or approve of.

40. Further, Beersy's unlawful use has left Mr. Levitt worried and uncertain about his ability to control how his photograph and image are used. Beersy's use of Mr. Levitt's photograph for commercial purposes is an alarming invasion of his privacy.

41. Ultimately, Beersy has injured Mr. Levitt by using his photograph, likeness, and person for its own commercial purposes without Mr. Levitt's authorization.

42. As of the date of filing this Complaint, Beersy continues to use Mr. Levitt's photograph on its prank package.

COUNT I
VIOLATION OF ORPS, OHIO REVISED CODE § 2741.01, et seq.

43. Mr. Levitt incorporates the foregoing paragraphs as though fully set forth herein.

44. ORPS prohibits the use of an individual's name, voice, signature, photograph, image, likeness, or distinctive appearance for commercial purposes without prior written consent. R.C. § 2741.02.

45. Beersy used Mr. Levitt's photograph without Mr. Levitt's consent on its prank packages for the commercial purpose of selling its products.

46. As a result of Beersy's violation of the ORPS, Mr. Levitt has suffered injury to his privacy rights.

47. Mr. Levitt has been denied the economic value of his image, photograph, and persona, which Beersy appropriated without compensation.

48. Mr. Levitt has been denied his statutorily protected right to refuse consent and protect his privacy.

49. Beersy's actions have inflicted mental injury on Mr. Levitt and have disturbed his peace of mind.

50. Under ORPS, Mr. Levitt is entitled to either actual damages, including any profits derived from and attributable to Beersy's unauthorized use of Mr. Levitt's persona, or statutory damages in the amount of at least \$2,500.00 up to \$10,000.00. R.C. § 2741.07(A)(1)(b).

51. Mr. Levitt is also entitled to an award of exemplary or punitive damages, in addition to reasonable attorneys' fees, court costs, and other expenses associated with this action. R.C. §§ 2741.07(A)(1)(c) and 2741(D)(1).

52. Mr. Levitt also seeks injunctive relief prohibiting Beersy's unauthorized use of his photograph.

COUNT II
OHIO COMMON LAW TORT OF APPROPRIATION OF NAME OR LIKENESS

53. Mr. Levitt incorporates the foregoing paragraphs as though fully set forth herein.

54. Ohio common law recognizes the tort of appropriation of a name or likeness. A claim for misappropriation exists where plaintiff's name or likeness has an intrinsic value, and defendant takes or uses that name or likeness for its own benefit, commercial or otherwise.

55. Mr. Levitt's photograph, likeness, and persona have commercial value.

56. By engaging in the foregoing acts, Beersy appropriated Mr. Levitt's photograph and persona for its own commercial use and benefit.

57. As provided for under Ohio common law, Mr. Levitt seeks monetary recovery in the amount of the commercial benefit Beersy derived from its misappropriation of Mr. Levitt's photograph and persona, as well as the entry of an injunction prohibiting Beersy's tortious acts.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Andrew Levitt demands judgment in his favor on all counts and prays for relief against Defendant Beersy L.L.C., including but not limited to³, the following:

- a. A permanent injunction enjoining Beersy from using Mr. Levitt's photograph, likeness, and persona on any and all Beersy products;
- b. An award of the greater of actual damages, including any profits derived from and attributable to the unauthorized use of Plaintiff's photograph, or statutory damages in up to \$10,000;
- c. An award of punitive or exemplary damages; and
- d. An award of reasonable attorneys' fees, court costs, and other expenses associated with this action.

Respectfully submitted,

/s/ Aneca E. Lasley

Aneca E. Lasley (0072366) - Trial Attorney

Kishala Srivastava (0098807)

ICE MILLER LLP

250 West Street, Suite 700

Columbus, Ohio 43215-7509

T: 614.462.2700

F: 614.462.5135

Aneca.Lasley@icemiller.com

Kishala.Srivastava@icemiller.com

Counsel for Plaintiff Andrew Levitt

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands a trial by jury to the extent authorized by law.

/s/ Aneca E. Lasley